IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE THIRD DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

**THE HON'BLE DR JUSTICE G.YETHIRAJULU**

**WRIT PETITION NO: 12788 of 2004**

Between:

The Atmakur Fishermen Cooperative Society, rep by President,

Mr. Brunga Ramanarao S/o Nagaiah, R/o Atmakur Village,

Durgi Mandal, Guntur District.

**..... PETITIONER**

AND

1 Government of Andhra Pradesh, rep by Principal Secretary,

Animal and Husbandry Dairy Development & Fisheries

Department, Secretariat, Hyderabad
2 The Commissioner of Fisheries Mastya Bhavan, Santhinagar,

Hyderabad.
3 The Deputy Director of Fisheries Guntur District, Guntur
4 The Asst. Director of Fisheries Guntur District, Guntur

5 G.Simhachalam, s/o.Dhan Raj, R/o.Macherla, Guntur District

(R-5 is impleaded as per Court order dt.03-09-2004 in WPMP

No.17994 of 2004)

**.....RESPONDENTS**

Petition under Article 226 of the constitution of India praying that in the

circumstances stated in the Affidavit filed herein the High Court will be pleased to issue Writ order or direction more particularly one in the nature of Writ of Mandamus, declaring the order of the 1st respondent vide Memo No. 3147/FII (1)/04-2, dt.14-7-2004 as bad arbitrary, void contrary to the provisions of APCS., Act 1964 apart from Principles of Natural justice and set-aside the same.

**Counsel for the Petitioner: MS.M.VIDYAVATHI**

**Counsel for the Respondents 1 to 4: GP FOR FISHERIES**

**Counsel for the Respondent No.5: MR.K.SURESH REDDY**

**The Court at the stage of admission made the following:**

**HONOURABLE DR. JUSTICE G.YETHIRAJULU**

WRIT PETITION NO.12788 OF 2004

**ORDER:**

The petitioner is a Fishermen Co-operative Society represented by its President. The Government of Andhra Pradesh represented by Fisheries Department passed an order on 14-07-2004 which reads as follows: -

> "In continuation of reference 2nd cited, the Commissioner of Fisheries, is informed that the Fishing be stopped and concerned Fishermen Cooperative Society records be kept in the PIC appointed immediately."

**2.** No reasons have been assigned by the Government, as to why the fishing operations have to be stopped. The petitioner therefore, approached this Court through this writ petition to declare that the order of the first respondent dated 14-07-2004 as arbitrary, void and contrary to the provisions of the A.P. Co-operative Societies Act, 1964. On the face of the order, it is seen that it is a nonspeaking order. Therefore, it is liable to be set aside.

**3.** The learned counsel for the respondents represented that while setting aside the order impugned, the respondents may be given opportunity to make an enquiry into the affairs of the society and to take appropriate steps according to Rules.

**4 .** In the light of the representation of the learned counsel for the respondents and in the light of the above observations, the writ petition is to be

allowed. The order of the first respondent dated 14-07-2004 is set aside. The respondents are at liberty to take appropriate steps against the affairs of the society according to Rules. The implead petition, filed by some of the Members, who are alleged to have been expelled, is closed in view of the disposal of the writ petition at this stage.

**5.** The local MLA alleged to have passed an order dated 07-07-2004 without any powers. The learned counsel for the petitioner submitted that the local M.L.A ought to have forwarded a representation, if any, presented to him to the Government, instead of exercising powers by himself without such power. Since the member of the legislature passed some order without any powers, it can be ignored, till it is recognized by the Government, by way of passing an order according to law.

**6.** The Writ Petition is accordingly allowed. No order as to costs.

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Dr. G.YETHIRAJULU, J

03rd September, 2004

SKM

**Note**

Operative portion by

Wife at party's cost.

B/o.

skm

That Rule Nisi has been made absolute as above.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice on this

Friday, the third day of September Two thousand and four.

REGISTRAR

To

1 The Principal Secretary, Government of Andhra Pradesh,

Animal and Husbandry Dairy Development & Fisheries

Department, Secretariat, Hyderabad
2 The Commissioner of Fisheries Mastya Bhavan, Santhinagar,

Hyderabad.
3 The Deputy Director of Fisheries Guntur District, Guntur
4 The Asst. Director of Fisheries Guntur District, Guntur

5 Two CCs to Government Pleader for Fisheries,

High Court Buildings, Hyderabad. (OUT)

6 Two CD copies.